

**State Board of Equalization**

**OPERATIONS MEMO**

For Public Release

No: 1181

Date: October 27, 2010

**SUBJECT: Interagency Offsets and Installment Payment Agreements**

**I. Purpose**

This memorandum sets forth new guidelines for the use of an interagency offset when the taxpayer has entered into an installment payment agreement with the Board of Equalization (BOE.)

**II. Background**

Government Code section 12419.4 gives the state a lien for taxes against property belonging to a taxpayer and held by the state. In addition, Government Code section 12419.5 authorizes the State Controller to offset a debt owed to the state against a debt owed to a taxpayer by the state. The State Controller has authorized state departments to effect offsets when a tax liability exists without the requirement that the request be submitted to the State Controller for prior approval. However, the agency that is withholding payment, such as the Franchise Tax Board (FTB), must send the tax debtor a notice about the offset.

The current policy regarding the use of interagency offsets can be found in Compliance Policy and Procedures Manual (CPPM) section 771.000 et seq. BOE guidelines state that staff may utilize the offset procedure only as a “last resort” when all other collection avenues have been ineffective. CPPM section 771.020 provides the conditions that must exist before offsetting the taxpayer’s property; specifically, the taxpayer cannot be on an installment payment arrangement. If on a plan, the taxpayer must not be performing as agreed, and the BOE 407-T, *Installment Payment Agreement-Notice of Termination* letter has been sent to the taxpayer.

**III. Procedures**

The use of interagency offsets will no longer be used as a procedure of last resort. Compliance staff should now consider requesting offsets for all final amounts owed by a taxpayer that are greater than 90 days old. Offsets should be requested even if an installment payment agreement has been offered to the taxpayer.

The following documents have been modified to notify the taxpayer of the BOE’s ability to initiate an offset against their property held by another state agency.

- 1) BOE-407-S(S1) REV. 4 (11-08), Automatic Form Processing (AFP), Streamlined Installment Payment Agreement (SIPA) Invitation Letter

- 2) BOE-407-S (S1B) REV.4 (11-08), AFP, Application for SIPA Installment Payment Agreement.
- 3) BOE-407-S(S1) REV. 4 (11-08), Non-AFP, SIPA Invitation Letter
- 4) BOE-407-S (S1B) REV.4 (11-08), Non-AFP, Application for SIPA Installment Payment Agreement.
- 5) BOE-407-A REV.2 (11-08), Payment Proposal Letter
- 6) BOE-407 REV. 17 (11-08), Installment Payment Agreement

As part of this change, the following language has been added to the Installment Payment Agreement forms (BOE-407 series) in the section describing the terms of the agreement.

*“The Board of Equalization has the authority to offset any California state agency refund. Unless the liability is paid in full from these sources, payments must continue as noted in this agreement.”*

#### **IV. OBSOLESCENCE**

This Operations Memo will become obsolete when the information contained herein is incorporated into the appropriate manuals.

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